

REMARKS

Claims 1-30, 32-33, and 35-39 are pending. Claims 1, 10, 17, 21, 27, 32, 33, 36, and 38 are independent.

In the action mailed March 28, 2007, claims 1-4, 6-9, 21, 23-30, 33, and 35-37 were allowed and claims 10-32 were recognized as reciting allowable subject matter. Applicant acknowledges the recognition of allowable subject matter with appreciation.

Claims 38-39 were rejected under 35 U.S.C. § 101, first paragraph as allegedly being directed to non-statutory subject matter. In particular, the rejection contends that machine logic tangibly embodied in hardware does "not fall into any category of statutory subject matter."

Although applicant disagrees, to advance prosecution, claims 38-39 have been amended to recite that the hardware comprises means for performing various functions. Accordingly, Applicant thus asks that the rejections of claims 38-39 be withdrawn.

Claim 10 was rejected under 35 U.S.C. § 112, second paragraph as indefinite. The rejection contends that a determination of a transmitted data packet size cannot be used alone to (re)set a maximum data packet size.

To advance prosecution, claim 10 has been amended to recite that a size of a largest data packet is determined. Such a determination is described at page 5, line 15-17 of the specification. As shown in element 504 of FIG. 5, such a determination can include the comparison with other parameters.

The rejection of claim 10 also contends that a maximum data packet size of a network path cannot be reset without having been initialized. To address the Examiner's concerns, claim 10 has been amended to recite that the maximum data packet size of the network path is "set." It is clear that a maximum data packet size of a network path can be set without having been initialized.

In light of these changes, the scope of claim 10 is thus believed to be discernable to those of ordinary skill. Accordingly, Applicant asks that the rejection of claim 10 be withdrawn.

Claim 13 was rejected under 35 U.S.C. § 112, second paragraph as indefinite. Claim 13 has been amended to address the Examiner's concerns.

Claim 17 was rejected under 35 U.S.C. § 112, second paragraph as indefinite. The rejection contends that the generation of a fragment of the data message along the network path is an "essential step."

Applicant respectfully disagrees. Attention is respectfully directed to page 2, line 8-11, which describes that routers along a network path can fragment a packet that is larger than a path MTU.

Such fragmentation can occur without activity on behalf of the actor who performs claim 17 and hence need not be recited in claim 17. By analogy, a claim directed to a method of operating a gravity feed dispenser need not recite a step of "attracting the dispensed substance to the center of the earth," even when such gravitational attraction is "essential" to the operation of the dispenser.

Applicant also submits that this fragmentation of packets by routers is well understood by those of ordinary skill. One of ordinary skill would be able to discern that such fragmentation could be performed by actors other than those who perform claim 17. Hence, the fragmentation of a data message need not be recited in claim 17.

The rejection of claim 17 also contends that a determination of a transmitted data packet size cannot be used alone to adjust a maximum data packet size.

To advance prosecution, claim 17 has been amended to recite a size of a largest fragment is determined. As discussed above, such a determination can include the comparison with other parameters.

As best understood by applicant, the rejection of claim 17 also contends that a maximum packet size between sending and receiving points cannot be adjusted without having been initialized. To address the Examiner's concerns, claim 17 has been amended to recite "setting" the maximum data packet size between sending and receiving points. It is clear that a maximum packet size between sending and receiving points can be set without having been initialized.

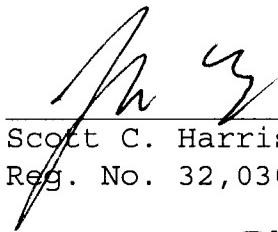
In light of these changes, the scope of claim 17 is thus believed to be discernable to those of ordinary skill. Accordingly, Applicant asks that the rejection of claim 17 be withdrawn.

Claim 32 was rejected under 35 U.S.C. § 112, second paragraph as indefinite. Claim 32 has been amended to address the Examiner's concerns.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Applicant asks that all claims be allowed. No fees are believed due at this time. Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,



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